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FOCUS

MIDWEST

Imprisonment in America: An American Tragedy



out of focus

Readers are invited to submit
items for publication,
indicating whether
the sender can be identified.
Items must be fully documented
and not require any comment.

WHAT NUCLEAR WASTE? Legislation to create a permanent resting place for the nation's radioactive waste probably will not deal with waste created in the production of nuclear weapons—although it accounts for 90 percent of the total.

ONLY "POLITICAL?" Interpol (International Criminal Police Organization), composed of over 100 member countries, refuses to assist in locating Nazi war criminals. Interpol officials maintain that such "political" activities run counter to its charter.

LIBERTY LOBBY Not long ago, William Carto's Institute for Historical Review, an affiliate of the Liberty Lobby, offered \$50,000 to anyone who could furnish evidence that the Holocaust in fact occurred. Former Auschwitz inmate Mel Mermelstein presented some of his voluminous documentation (including a photo of himself at Auschwitz) and judgment was awarded to him by a Los Angeles Superior Court judge, who duly took judicial notice of the Holocaust. The Liberty Lobby's weekly tabloid, *Spotlight*, has been running full-page ads for books that claim the Holocaust never happened.

MORAL MAJORITY At a Moral Majority meeting in Pennsylvania Rev. Robert Billings, first executive director of the Moral Majority, was quoted: "I know what you and I feel about these queers, these fairies. We wish we could get in our cars and run them down while they march." On the other hand, Billings added, "We need an emotionally-charged issue to stir up people and get them mad enough to get up from watching TV and do something. I believe that the homosexual issue is the issue we should use."

GIs IN EURO-SLUMS? Germany loses much of its romance when seen through the eyes of American soldiers stationed there, who reside in quarters that qualify as European slums. American officials say it would cost \$1.5 billion just to bring the buildings up to snuff, and a whopping \$27 billion to replace them. That boils down to \$90,000 per soldier. No explanation was offered why the unit cost for collective housing was so astronomically high. The buildings, which are overcrowded and have antiquated wiring and telephones, apparently contribute to the crime and violence that often occurs there.

SCHOOL LUNCH CRUNCH Participation in the national school lunch program has plummeted by 15-30 percent in the wake of a reduction in federal subsidies for the program, reports the *New York Times*. Born in the heat of the Reagan budget battle, the cuts drove lunch prices up and student buyers down. In addition, about 400 schools nationwide have withdrawn from the program.

PACKAGING COST It's the package that counts—at least in your pocketbook reports *CNI weekly*. So say recent figures released by the U.S. Department of Agriculture that point to the high cost ratio of packaging consumer goods versus the product itself. For instance, beer drinkers pay for packaging five times what they pay for sudsy libation itself. Similar ratios exist in ready-to-mix desserts, table syrups, chips and cereals.

CENSORS ON THE MOVE Religious activists apparently have stepped up their crusade to rid the world of objectionable reading material by focusing on high school libraries. As of late, their new venture, albeit unorganized, has been into the magazine realm. Among the magazines frequently singled out for attack are *Time*, *Newsweek*, *U.S. News and World Report*, *Psychology Today* and *Sports Illustrated*. Often these magazines are removed from library shelves and subscriptions canceled.

CAPTIVE EARS Being forced to listen to music while on "hold."

SNAKE CHARMER? Missouri conservation agent Dick Mitchell was more than a little surprised to pry the lid off a pail which was brought to him to find a five-foot boa constrictor captured by visitors at Spring Creek. It seems, however, Mitchell's a bit of a snake charmer since he found an eight-foot python in the James River about ten years ago.

OUT OF FOCUS	2
LETTERS	4
COMING INTO FOCUS	4
EDITORIALS/	5
Imprisonment, an ongoing tragedy	

Redistricting Report:

DEMOCRATIC MAP APPROVED BY FEDERAL COURT IN ILLINOIS	6
--	---

IMPRISONMENT IN AMERICA	7
-------------------------	---

The American Prison:

A PROBLEM NOT THE SOLUTION/Scott Decker	8
---	---

THE ORIGIN OF PUNISHMENT AND THE RISE OF PRISONS/Steve Means	10
--	----

MISSOURI CORRECTIONS SUFFERS FROM LACK OF RESOURCES/Interview with Dr. Lee Roy Black	12
--	----

PRISONS AND JAILS UNDER LEGAL SEIGE/National, Illinois and Missouri court suits	14
---	----

WOMEN PRISONERS: A FORGOTTEN GROUP	16
------------------------------------	----

GRAND JURY REPORT: IGNORED AS USUAL	18
-------------------------------------	----

JAIL IN DANGER OF TOTAL COLLAPSE/Judith Johnson	20
---	----

ILLINOIS POLITICS/Mikva stays on court; Stevenson gets nod	22
--	----

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Note to our readers: This is the first of a two-part special issue of FOCUS/Midwest dealing with imprisonment in America. Alternative solutions will be published in the companion issue, number 91.

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letters

Favors population decline

F/M: In an article in the August issue of the *Atlantic Monthly*, Julian Simon, a professor of economics and business administration at the University of Illinois, has taken such an extreme position with regard to population growth that he is unlikely to be supported by even the most ardent of the technological optimists.

Professor Simon states that, "Given the economic analysis outlined here, anyone who takes a long-range view of the world should prefer a growing population to one that is stationary, or declining."

A shaky underpinning for that astonishing statement is provided by several curious notions—both highly inaccurate.

First, the idea that what might have been good in the past must continue to be good in a drastically changed present can hardly be taken seriously. Yet that is what Professor Simon, in his article, seems to be saying about population growth.

Population growth *was* desirable throughout most of human history—up until the time, about 120 years ago, when the human family reached one billion. Many scientists believe that the earth does not have the long-range carrying capacity to support a human population in excess of one billion (if everyone is to enjoy a high average standard of living in a healthy environment). If that is true, then it follows that population growth beyond that point is harmful to the human race, not beneficial.

Overpopulation exacts a staggering toll in human tragedy and misery. For example, approximately 122 million children were born in 1979. Within a year, over 12 million were dead—victims of disease and starvation directly related to overpopulation, and further population growth.

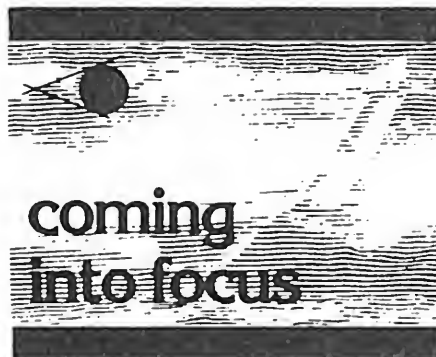
Secondly, the idea that the future must follow the patterns of the past is completely contrary to much of human experience. Yet, here again, that is what Professor Simon seems to be saying when he states that, "Demographic history offers evidence that people can . . . increase resources when they need to."

Many responsible studies have warned of impending shortages of the resources necessary for the functioning of our industrial economy. To argue that this *will not* happen simply because it has *not yet* happened is to argue that there is not, and never will be, a bottom to the barrel.

Hardly anyone is likely to take seriously Professor Simon's argument that we should prefer a growing population to one that is stationary, or declining. To the contrary, more and more informed people are becoming convinced that the truly central issue of our time is how to halt and then reverse population growth, so that both U.S. and world population size can eventually be stabilized at some fraction of today's numbers.

To extoll further population growth flies in the face of logic and common sense.

Donald Mann
President, Negative
Population Growth, Inc.
New York, N.Y.



GUNS AWAY The state of Massachusetts recorded a 38 percent drop in homicides two years after it adopted one of the nation's strictest gun control laws.

WORLD PEACE MARCH The Nipponzan Myohoji Japanese Buddhist monks have begun a World Peace March across the U.S. to dramatize the threat to peace presented by nuclear weapons. Three separate marches began in San Francisco, Los Angeles and Mexico City in October 1981. All are scheduled to converge in New York City in June 1982 for the opening of the United Nations Special Session on Disarmament. The Los Angeles walkers are expected to pass through the Missouri cities of Kansas City (Jan. 27-28), Jefferson City (Feb. 9), Columbia (Feb. 10-11), and St. Louis (Feb. 19-21) as well as the Illinois cities and towns along Interstate Highway 70. Further information can be gotten from 632 N. Britannia, Los Angeles, Calif. 90033. Phone (213) 972-9656.

SAT SCORES Scholastic Aptitude Test (SAT) scores for 1981 among college bound high school seniors held to the 1980 level and did not decrease. This is the first time since 1963 that the

seniors' scores have not declined on either the verbal or mathematics portion of the test. Missouri seniors, who have consistently scored about 30 points higher than the national average on both parts of the test, showed slight increases in 1981 after several years of slow decline.

LOBBYING AID The St. Louis-based Coalition for Sensible and Humane Solutions has recently published a 17" x 14" fold-out brochure explaining and illustrating how a bill works its way through the Missouri General Assembly. Clearly shown are places in a proposed law's route where citizen lobbying can alter a bill or affect its progress. A copy can be obtained from the Coalition, 2000 Rayner Rd., St. Louis, Mo. 63122.

ANTI-REAGAN RALLY In October about 2,000 delegates from 43 states and representing more than 100 political, labor and social groups convened in Detroit for the All-Peoples Congress. The delegates voted overwhelmingly to conduct major demonstrations against Reaganomics around the country during the week April 24 to May 2, 1982. Chicago is among the cities in which demonstrations called "The Days of Resistance" will take place. Organized labor, blacks, Hispanics, women, Vietnam veterans, homosexuals and various community groups were represented at the parley to develop methods to put pressure on the Reagan administration to rescind its deep cuts in social programs and to protest the U.S. military buildup. The *New York Times* reported that the Congress was denounced by the *Worker Vanguard*, a Marxist paper, as a front for the Democratic Party.

THE AMERICAN DREAM "Architects of an Unfinished American Dream" by Ernest Calloway has just been published. Calloway presents short biographies on 15 Americans who made "Invaluable Contributions to the American Dream." Among the names are Roger Williams, Frances Wright, Sam Adams, Eugene Debs and Martin Luther King. Calloway's essays stress those who strived for a better America, and as an ironic counterpoint, he notes that nine of the 15 were threatened with jail or were imprisoned for their views.

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Imprisonment

American prisons and jails constitute an ongoing tragedy. Living conditions in both are often deplorable, health care nonexistent and rehabilitation a pipe dream.

Yet the real tragedy lies not behind the prison walls, but with the public and its outright indifference to sensible and humane incarceration of offenders. This indifference is a growth on the body of American society, and is rooted heavily in public ignorance and cynicism.

The public is the problem with prisons.

Rather than look carefully at the facts, the public too often caters to its own fears by demanding stiffer sentences and the imposition of capital punishment. They might even approve a bond issue to build more prisons to house more criminals or stock a gun cabinet. All of these short-term solutions ignore the problem, even aggravate it.

Public cynicism is yet another malignancy. Lodged somewhere in the American psyche, born of early Puritan ideals, is the notion that a criminal deserves the lot he or she gets, whether it be filthy, intolerable living conditions or brutal physical or psychological torment.

At the very least, this cynicism is hypocritical; we're all lawbreakers at some point in our lives. At its worst, it is festered misanthropy, often with a racial overtone. After all, these are animals.

Fifty-three percent of the Americans polled in a recent AP survey said they believed prison conditions were "not harsh enough." Another 18 percent said they were "just about right." Again, a strange deference to punishment emerges in a brutal, degrading sense.

Offenders who live (and die) in this environment can hardly be expected to emerge as model citizens. Even if by some miracle they would, society quickly robs them of their opportunities to get a job, credit, transportation and respect—basic requirements for living in America.

Corrections officials certainly cannot be ridiculed for running huge, overcrowded institutions in the best way they can given the meager funding and resources. They're faced with the simple and predictable realization that society just doesn't give a damn about those it imprisons.

While there was a brief outcry following the hideous events at the New Mexico

State Penitentiary in 1980, it was prison business as usual a week later. Conditions today are as bad as they were then.

For the average person, the obvious answer to the prison problem is to avoid it altogether, which is easier if you happen to be white and belong to the middle or upper class. Prisons increasingly house the nation's minorities and poor.

Still, new thinking has emerged. While it is not yet pervasive, it has gained a strong foothold through its cost-effectiveness. If a state successfully modifies the criminal behavior of an offender, tax money is saved and the cost of incarceration, in both building and custody expenses, is maintained, if now lowered. It must be remembered that over 70 percent of all crimes are committed by repeat offenders. In other words, prisons have to get it right the first time.

Missouri Eastern Correctional Center in Pacific reflects this new approach. Thus far, it looks like a rational approach to the gordian knot of imprisonment.

While not every offender is capable of being rehabilitated, most are, given a positive environment where responsibility and a set of values are rewarded. This basic philosophy exemplifies the Missouri Eastern approach to its inmates, which incidentally include murderers, sex offenders and other violent types. Inmates are shown respect by the treatment and custody staff and are more than happy to reciprocate.

Inmates invariably agree that the Missouri Eastern environment genuinely makes them feel more secure; less uptight and more productive. In short, everyone is relaxed.

The prevailing attitude at Pacific is that of a sense of community, featuring a respect and concern for the quality of that community.

The search for alternatives to our present criminal justice system must always be qualified by a basic axiom: crime does not occur in a vacuum. It is a function of our society, economy, media and family structure. And things like public indifference only rub salt into the deep wounds of the offender.

A change is certainly what is needed, but one that occurs on many fronts. Unless the public and its legislators open their eyes to humane and effective incarceration, then the same mistakes will be made again and again.

Redistricting Report:

Democratic map approved by Federal Court in Illinois

By Phil Duncan

Federal judges in Illinois ruled Nov. 23 in favor of a congressional redistricting map proposed by Democrats, and Republicans decided two days later to appeal the decision to the U.S. Supreme Court.

The remap, endorsed on a 2-1 vote by the judicial panel, pairs two Republicans who represent southern and western suburbs of Chicago — Reps. George M. O'Brien and Edward J. Derwinski.

At the northern end of the city, the plan puts GOP Rep. John Edward Porter into Democratic territory that also contains the home of Democratic Rep. Sidney R. Yates. To avoid a near-certain loss to Yates, Porter has announced he will move his residence and run against fellow-Republican Robert McClory in the redrawn suburban 10th District.

Another suburban Republican, Rep. John N. Erlenborn, is given so much new and unfamiliar territory that he is exploring the possibility of seeking re-election in another district.

In the south-central part of the state, GOP Rep. Paul Findley's comfortably Republican district becomes marginal under the remap. Republican Rep. Daniel B. Crane loses territory favorable to him on the western end of his district, and picks up two Democratic counties as well as the cities of Champaign and Urbana. But his district should still have a Republican tilt.

In southern Illinois, Democratic Rep. Paul Simon gains about 40,000 mostly Democratic voters in an area south of East St. Louis that is now represented by Democrat Melvin Price. Simon also sheds several counties on the northern fringe of his district. The change should benefit Simon, who won re-election in 1980 by fewer than 2,000 votes, and it should not appreciably harm Price, a 36-year House veteran who won 64 percent of his district's 1980 vote.

Republicans currently hold a 14-10 edge in the Illinois House delegation, which next year shrinks by two seats because of the 1980 reapportionment. The remap seems likely to reduce the GOP edge to 12-10 after 1982; should any other Republican incumbent lose, Democrats would gain an even split of the state's 22 seats.

Both parties presented the panel with maps that would preserve three black-majority districts in Chicago for Democrats Harold Washington, Gus Savage and Cardiss Collins, all of whom are black. The Democratic plan fills out those underpopulated minority districts by extending their boundaries into the southern and western suburbs of Chicago, a technique that tends to dilute the influence of more-conservative suburban voters.

The map proposed by Republicans concentrated minority strength in the city; only one urban district reached into the suburbs, and four other Chicago-area Democratic districts were combined into two. The GOP proposal would probably have brought the party a 14-8 advantage in the House delegation after 1982.

The decision provides the Democrats with a form of revenge for the redistricting that took place a decade ago, when a different federal panel accepted a Republican map that cost the Democratic Party two seats.

The court majority ruled this time that the Democratic map best satisfies requirements for nearly equal population in districts. Although population variances in all three

proposed plans were small, the variances in the Democratic plan are virtually nil.

The court also said the Democratic plan is more equitable because it tends to equalize partisan strength in the House delegation, whereas the Republican proposal would have given the GOP a clear advantage.

Voting in the majority were U.S. Court of Appeals Judge Robert Sprecher and U.S. District Court Judge Susan Getzendanner. Getzendanner is a Carter appointee; Sprecher was nominated to his judgeship under President Nixon.

In his dissent, U.S. District Court Judge Frank J. McGarr — a Nixon appointee — objected to the Democrats' method of padding underpopulated urban districts by stretching them into the suburbs.

The court became involved in Illinois redistricting after the Legislature failed earlier this year to agree on new boundaries. Since Republicans control the state House and Democrats have a narrow majority in the state Senate, each party realized that its plan had little chance of passing both houses.

Lawyers for the GOP studied the majority decision and McGarr's dissent, and determined that the party had grounds to appeal to the Supreme Court. McClory and Derwinski were among those incumbents who expressed interest in trying to overturn the map. Other Republicans said they were not optimistic that the Supreme Court would consider the case. Although Rep. Porter called the approved plan an "appallingly political map," he also said "we have to operate on the assumption that it will be upheld."

The issue must be settled soon; Illinois' congressional primary, the first of the 1982 political season, is scheduled for March 16. The filing period for candidates was originally set for Dec. 7-14, but the court reset the filing period to run from Dec. 28 to Jan. 5.

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Imprisonment in America has been too long ignored. As the crime rate continues to soar, the public presses for a tougher stand on criminals and the use of the death penalty. The average person on the street wants more prisons built, although not near his home or workplace nor does he want to pay for them.

In the meantime, prison and jail officials desperately try to keep the lids on human pressure cookers, brought to the bursting point by scant funding and general public indifference.

Eventually, the problem will be confronted—one way or another.

In two special issues, FOCUS/Midwest brings this issue before our readers, realizing that only concerted public leadership can bring about the sweeping changes needed in a system of punishment that too often exudes modern barbarism.

Presented are over a dozen reports and essays by prominent authorities in the corrections field. Moreover, a special look at imprisonment in Missouri and Illinois is provided in hopes of broadening local awareness.

Several national contributors came through with material for this issue despite their regular duties and commitments. Locally, FOCUS/Midwest is especially indebted to Scott Decker, an asst. professor of Administration of Justice at the University of Missouri-St. Louis, whose advice and consultation proved invaluable in pulling together the divergent aspects of corrections.

The ideas presented in these two issues (Number 90 and 91) are destined to move to the forefront of social debate in America. The time is ripe for reflection before we enter an expansive new era of unreasoned punishment that has already proven itself an egregious failure.

A problem not the solution

By Scott Decker

Like Missouri, numerous other states are engaged in a nationwide prison-building boom. During the past five years more prisons have been built than at any other time in our nation's history.

At the same time, the prison itself is being assailed by an increasing number of correctional experts as being costly and ineffective in terms of long-range considerations. With its rehabilitative function routinely discredited, the prison continues to be steeped in controversy.

Years ago, the controversy centered around the location of the prison—not how to keep a prison away, but how to have it built in your area with its boon to the local economy in jobs and revenue.

Since then, things have indeed changed.

The new prison near Pacific, Mo., a medium security facility, was first to be located near Kansas City, but a chorus of public and political opposition later forced the state administration to abandon the site.

But while citizens oppose prisons in their neighborhood, in principle they favor construction of more prisons. This divergence in attitude is rarely considered by the average citizen. And for the more involved citizen, the problem has been made more complex by a parade of criminologists who have collected evidence on the failure of such institutions to reduce overcrowding, much less rehabilitate.

The end result is a stalemate in public perception: the country needs more prisons even if they are ineffective.

In order to effect a change in public policy, the traditional justifications for punishment must be reexamined: retribution, deterrence and rehabilitation.

Approaches in conflict

The oldest is retribution—the notion that violations of the law upset the equilibrium in society and must be redressed. The particular characteristics of the offense determine the penalty. Retributive justice emphasizes uniformity of punishment: those who commit similar offenses receive similar penalties. Retribution is gaining support among those concerned with sentencing inequities.

Deterrence, the second justification, is directed at both the offender as well as the public at large. It attempts to stop the offender from committing more crimes while intimidating the public into lawful behavior. Deterrence banks on the fear of punishment.

Rehabilitation represents the most modern approach. It seeks to treat or alter those conditions responsible for the criminality of the offender.

Originally, prisons were regarded as humane alternatives to corporal punishment: beheading, hanging, breaking on the wheel, quartering, disemboweling and public humilia-

tion. These were the primary forms of punishment prior to the development of penal institutions in Pennsylvania and New York.

It is ironic that the Quakers were the prime movers in the development of prisons. They promoted the penitentiary as a benevolent alternative. Today, the American Friends Service Committee views the prison system as an experiment that has failed and warrants replacement.

The prison, like its sociological undercarriage, has undergone some interesting changes over the past 150 years. The penitentiary, as it was first known, was designed to induce penitence and reflection. Later in the 19th century, it became known as a reformatory, which lent a more secular slant to its role. Finally, after World War I, the term "prison" became commonplace.

The sociological jargon changed as well. Punishment became penology which ultimately became, as is known today, corrections. Guards became correctional officers. Ex-convicts have become ex-offenders. But while the names have changed, the result is the same: the institutional imprisonment of people.

In the late 1940s, social scientists optimistically developed models of the prison as a center of treatment and rehabilitation. Since rehabilitation focuses on the offender, different offenders may receive different penalties while committing similar crimes. Sentencing depended upon amenability to treatment. In turn, freedom for the offenders was at the option of counselors, wardens or parole boards.

As a result, indefinite sentences (i.e. variable sentence with a fixed lower and upper limit) came into heavy use. When an offender receives

During the past five years more prisons have been built than at any other time in our nation's history.

The U.S. imposes the longest criminal sentences in the world

a sentence of 1 to 10 years, his/her release will be granted upon evidence of successful rehabilitation.

Several groups, including the American Friends, were quick to point out the resultant inequities. It placed excessive power with potentially unqualified, even corrupt, officials. The use of rehabilitative criteria in release decisions took the responsibility for setting penalties from the courts and placed it with social scientists and social workers. Too often "social workers" were not professionally qualified but received that designation by the state as an occupational convenience.

Mounting evidence suggests that rehabilitative efforts have been a monumental failure. In a review of 231 programs, a panel concluded that no positive effect was observed. Robert Martinson, conducting research for the New York State Governor's Commission, concluded that few if any prison programs displayed a rehabilitative effect greater than would be expected by chance.

Some researchers even suggest that the negative features of institutionalization override any rehabilitative effect, since many institutions drift towards repression. This social phenomenon has been clearly observed in simulated experiments where in short time tensions emerged between the keepers and the kept.

The prison population

In spite of its record of failure, the American prison is entering a phase of phenomenal growth. Over 1,000 new jails or prisons are under construction or due to be constructed soon in the U.S. These institutions will house over 300,000 inmates and are estimated to exceed \$10 billion in costs. If all prisoners in the U.S. were congregated in one location, their population (539,005) would constitute a larger population than the city of St. Louis.

William Nagel, a former executive vice-president of the American Foundation, a group active in prison reform refers to this new city as "Prisonia." It would rank larger than 21 present members of the United Nations in population and have more residents than three of the 50 states. Since 1969 the budget for the Federal Bureau of Prisons has grown 500 percent, and even more in most states.

The increasing size of the prison population is not a result of the increase in the national population.

The rate of imprisonment has reached an all-time high for the

United States, and is calculated at 244 inmates per 100,000 citizens (Spring 1981). This represents a substantial increase from the rate of 200 per 100,000 in 1970. Furthermore, it ranks as third highest in the world behind South Africa (estimated at 400 per 100,000) and the Soviet Union (estimated at 391 per 100,000).

Perhaps most instructive are the rates of imprisonment (for 1973) for industrialized nations similar to the U.S. such as West Germany (81), the United Kingdom (75), Denmark (54) and Japan and Sweden (both 53).

Regardless of the data used, one fact is clear—the United States uses the prison from three to six times more frequently than other industrialized nations.

The U.S. also imposes the longest criminal sentences in the world. The

"... one fact is clear—the United States uses the prison from three to six times more frequently than other industrialized nations."

average sentence length for federal offenders has risen from 16.5 months in 1945 to 45.5 months in 1975. This obviously discredits the public perception that courts have become "soft" on criminals.

Eugene Doleschal, of the National Council on Crime and Delinquency Information Center noted in 1974 that only two percent of American prisoners were serving sentences for less than one year. Seventy-four percent were serving sentences greater than or equal to five years. In Sweden, by contrast, 91 percent of all inmates received sentences for one year or less.

In spite of our rates of imprisonment and extreme sentence length, the crime rate increases. Countries with a lower rate of imprisonment, particularly the Scandinavian nations, continue to have crime rates

notably lower than our own.

While variations in culture tend to complicate the comparisons, the magnitude of such differences in crime rates is compelling.

Most observers credit the high rate of imprisonment in this country to the incarceration of non-dangerous offenders. This group tends to be non-assaultive and generally poses no physical danger to society. It is estimated that two-thirds of those in federal prisons and one-half of those in state prisons are in that category.

Not only do we incur the cost of incarceration but in doing so ignore the chance to let the offender provide restitution to the victim.

The economics of imprisonment present a horror story. The national cost for imprisoning one adult yearly varies anywhere between \$10,000 and \$20,000. Missouri and Illinois were both considerably lower, \$5,700 and \$12,000 respectively. The construction cost of new cells averages \$25,000–50,000. One estimate places the yearly cost of imprisonment in ten years (using only a 6% inflation rate) at \$70,000 annually in a New York state facility.

A recently completed study for Congress found that cell availability is the critical variable in accounting for the size of the prison population. That is, if the cells are available, they will be filled.

Still another aspect of present construction efforts is the rapid decline of the size of the crime-prone segment of the population (15–24 year olds). A decrease in crime should accompany this trend.

If crime rates do indeed decrease, a serious dilemma arises: do we convert prisons to other uses or continue to fill them with ever less serious offenders? Current evidence suggests the latter will occur.

A radically new concept has to emerge in considering the criminal. Crimes have to be redefined. Alternatives to incarceration, such as fines, have to be designed and utilized. The period of imprisonment has to be re-examined as well as the degree of violence of the crime. Does the crime have a victim? The record of other countries has to be carefully studied and applied.

Current policies appease public irritation. Their implementation, however, will not reduce the rate of recidivism nor "keep criminals off our streets." Indeed, the system is a breeding ground for outcasts as defined by American society.

The origin of punishment

By Steve Means

Sigmund Freud suspected the origin of punishment stemmed from the birth of society itself. He envisioned a bizarre primordial event whereby the males of a presocietal horde banded together and murdered their leader. Being the strongest in the horde, the leader supposedly possessed the females and held each man in individual subjugation. By banding together, the men freed themselves from his tyranny.

After killing the "primal father," the men replaced him with a symbol which, among other things, totemized their guilt. Of course, little did they know what a cruel master they had created, for the symbol was *society*. In its shadow, rigid rules were developed; those who broke the rules were *punished*.

Like Freud, many theorists believe punishment is directly linked to man's passage from nature to culture. Still, others like Claude Levi-Strauss differed with Freud on a few key points.

Freud saw his societal symbol as plagued by collective guilt and emotional repression. Levi-Strauss saw it as an overt attempt by primitive man to comprehend his existence. Culture, thus, came about as man observed and speculated on his surroundings, relating them metaphorically to the way in which he dealt with other men.

Is punishment, then, a product of guilt and repressed emotion, used to reinforce the social order? Or, is it the product of rational contemplation in society? Recent theoretical works on punishment stress the latter explanation, in that they attempt to rationalize its use, but ultimately tend to draw heavily from the first approach. Indeed, there are most likely elements of both approaches in the final explanation.

Either way, society took on a life of its own and proceeded to make constant demands on man.

The prison, in the punishment design, has assumed a variety of roles. Prior to the 18th century, prisons were used chiefly to detain the ac-

cused. Upon the conviction, the criminal would then be subjected to any of a number of unsavory punishments, designed to approximate the

horror of the crime. Flogging, burning, hanging and beheading all enjoyed wide use throughout the Middle Ages. And as if those didn't sat-



and the rise of prisons

isfy the urge for revenge, hideous tortures were developed with the utmost agony in mind.

Much of the punishment and tor-

ture was meted out in the name of religion. During the Holy Inquisitions of the 13th and 14th centuries, for instance, alledged heretics were

According to a reliable estimate, the total number of witches hanged or otherwise put to death in colonial America was 35. Compare that to 30,000 who were put to death in England, 75,000 in France and 100,000 in Germany.

Until the 18th century, nuns and priests accused of naughtiness were routinely stripped nude and whipped on the buttocks in the public square. This practice was discontinued, however, as the later day prudishness set in and due to the pleasurable experience many reported during the whippings.

Public lynchings, also known as "hanging fairs" or "gallows day" were such a spectacle throughout strife torn England in the 17th and 18th centuries that they routinely drew 100,000 spectators. Window seats were scalped on the street, and a festive atmosphere prevailed as the people indulged in music, food and drink prior to the big event. Even the governor held a private party, complete with invitations which read: "We hang at eight, breakfast at nine."

English medical records from the 18th century indicate that a number of people managed to live through their hanging ordeal and, in many cases, completely recovered. Two of the more famous figures came to be known as "half-hanged Smith" and "half-hanged Meg."

Rats were put on trial in 16th century France for "having feloniously eaten up and wantonly destroyed the barley crop" of a province. A young lawyer named Chausson argued that his clients didn't show up in court because they feared cats might kill them along the way, and because he doubted they could read the summons, which was in Latin. After all, these were French rats.

Animals of all types were the target of criminal proceedings during the middle ages, especially if their natural activities affected the sustenance of the people around them. For instance, bees were tried in 864; locusts in Rome in 886; serpents in the 9th century; field mice and caterpillars in 1120; horseflies in 1121; eels in 1225, plus a wide array of other pests all the way up until the 19th century, when a Spanish court tried a plague of locusts. Once found guilty, the pests were anathematized (cursed).

Most witch trials of the Middle Ages centered around young, unmarried women, who were seen as temptresses. Minor speech defects or a sharp tongue were still other grounds to be classified as a witch. Being tested for a witch was usually a no-win situation for the young women. For instance, in one test the woman was thrown into a river. If she floated, she was a witch. If she sank, well, too bad.

Simply being dead rarely saved one from punishment during the middle ages. In fact, many punishments were applied after the criminal had died. In the case of England's Lord Protector Oliver Cromwell, whose bloody reign was from 1649-60, the vengeful mobs were unsatisfied with his rather unceremonial death at 59 of old age. Cromwell's body was later dug up and publicly hanged.

routinely thrown into prison to await interrogation. If a person survived the interrogation, he or she was usually dealt with via the stake—or thrown back into prison to rot with other unfortunates. Thus, prison saw some marginal use of punishment as early as the 13th century.

Existing about the same time were debtor's prisons, from which prisoners were only released after all debts were paid. Unlike the inquisitional prisons, the debtor could bring his family along to the prison, which was useful if the local authority confiscated the debtor's property.

By the 18th century, several prominent voices, including John Blackstone and Jean Rousseau, began to speak out against official cruelty and corporal punishment.

In 1777, John Howard wrote about prison conditions in England, noting that they were dark, filthy, overcrowded and housed women and children together with hardened criminals and the insane.

In 1787, Quakers in Philadelphia organized a prison reform group known as the Philadelphia Society for Alleviating the Miseries of Public Prison. This group is known today as the Pennsylvania Prison Society. It was the first group to advocate a reform as well as a punishment role for prisons.

Still, the punishment ethic dominates contemporary America. Society has never shown much concern for those it imprisons. Harsh or dangerous prison conditions were seen as *part of the punishment*. A recent poll taken by the Associated Press indicates that over half of all Americans (53 percent) think present prison conditions are "not harsh enough." Most of the respondents with this view tended to be white, male suburbanites of conservative persuasion. Only 13 percent of the respondents said prison conditions were "too harsh." Another 18 percent said they were "just about right."

Missouri corrections suffers from

Dr. Lee Roy Black is the recently named director of the Missouri Department of Corrections and Human Resources. Coming to the state with over 20 years of experience in the corrections field, Black was previously the deputy administrator of the state division of corrections in Wisconsin and director of classification at the Indiana Department of Corrections. Black started his career in corrections as a probation and parole caseworker. The interview was conducted by Steve Means of FOCUS/Midwest.

Q: How does Missouri's correctional system compare with other states?

A: Missouri is not one of the states that has spent a lot of money. They don't have the staff to try to develop programs for inmates. And Missouri traditionally has a lower tax base, [but] I feel under the circumstances, with the shortage of staff and low amount of physical resources, that some of the people have become very creative. Some of the wardens are using all the space that's available because they haven't had money in the past. They've had volunteers come in and do things which staff people would be doing in the past, for example.

Q: Has Missouri's correctional system lacked innovation in the past?

A: No, I wouldn't say that. I think some of the programs I've seen are very innovative. The important thing is that programs should meet the needs of the population you're dealing with. I see some of the superintendents that are very concerned with what's happening to their inmate population.

Q: What about the quality of the corrections staff?

A: It's some of the finest staff I've seen in terms of being knowledgeable about the resources, knowledgeable about the inmate population and just keeping up with what's going on.

Q: What is the state of the Missouri corrections budget?

A: All superintendents are now within their budgets. Last

year, I'm told they overspent by \$15 million. But now there's day to day supervision. The staff I'm impressed with, some of the programs I'm impressed with, but there is a lack of resources.

Q: What do you perceive as the most urgent problem facing the Missouri correctional system?

A: The major problem we have in Missouri is that we don't have a clear classification procedure, so that we know the kind of programs we need. In order to run a program you have to know what kind of needs inmates have, and what kind of facilities you can provide for them to meet those needs.

Then you move them [inmates] into the least-restrictive environment, a learning environment where they can move downward in the system, get out and go home. Security is the primary thing, I want to make that very clear. You try to develop a safe, secure environment in which inmates are not harming other inmates and the staff can feel comfortable. You have to remember that 98 percent of the [inmates] will be going home within three years. If they come back home without any skills and without anybody caring for them, the chances are very great they'll go back and steal again.

Q: Do you feel, then, the Missouri classification procedures need revamping?

A: Yes, I would definitely say that. The way the Missouri system has developed, you have the state prison and you have two or three satellites that have developed around it. Now that works when you only have three or four institutions, but when you have eleven, you need somebody to oversee the entire system and decide, based on program needs and security needs, who goes where and for what reason. We've implemented some of those things.

[Classification] is the most critical decision that one makes about an inmate coming into a correctional institution. Classification should identify dangerous people, anywhere from 10 to 15 percent, and they need to be separated from the regulars because those are the individuals that are going to rape and rob and do all of the other deadly things. You also need to bring out those individuals that are mentally retarded.

Q: What happens with a poor or inadequate classification system?

A: When you don't have a classification system that works, people tend to overclassify. They put everybody in maximum security and leave them there. That's the most



Dr. Lee Roy Black

lack of resources

expensive way you can do it, the costs are tremendous. If you don't know very much about the [incoming offenders], if you don't do the diagnostic work-up, then the tendency is to put him in a maximum security institution. In other words, find out what level he's reading on, get all the information about his background, what kinds of skills does he have, medical problems and so forth—that's what your classification system should do.

Q: Is that your number one priority?

A: Yes.

Q: What about the oft-stated pledge to keep the number of inmates at the new Missouri Eastern facility below its capacity of 512?

A: I think it is important to do that. But it has to benefit the rest of the system. You can't have an oasis over here and the rest of the institutions catching hell.

Q: Recently St. Louis County prosecutor George "Buzz" Westfall said Missouri needs more prison space on all levels—minimum, medium and maximum security. Would you agree?

A: Unless you know what kind of people you're dealing with, you can't say what kind of facility you need. What you need is more appropriate facilities, but they may be halfway houses, camps, mental health facilities or some other kind of facility. But you can't just say you need new prisons.

Buzz Westfall is a member of the governor's crime commission and is a member of the corrections committee, and I'm the chairman of that committee. We met recently and I explained to him what the classification [was aimed at]. In that meeting we expressed our thoughts and there'll be another meeting Jan. 18.

Q: A recent Associated Press poll said 53 percent of the Americans polled said they thought prison conditions were not harsh enough. How would you respond to that?

A: Why are people being sent to correctional institutions? They're being sent to the institution as punishment, that's the prevailing thought, not for punishment. We might be shifting [the emphasis] somewhere, but if that's the way an individual [thinks], we might as well go back to physical punishment.

Q: You mentioned that you were not opposed to using mace as a control device.

A: Right. I can see where if an inmate gets totally out of

control, it's a more humane way of trying to prevent that inmate from harming staff or himself.

Q: A study recently completed in Alaska indicates that if an offender is black, he is not more likely to get a prison sentence, but a longer one.

A: Yes, that's true, in fact, I can give you even more striking figures. In the state of Wisconsin, out of 100,000 white males, 40 are locked up. Out of 100,000 black males, 946 of them are locked up. There are a lot of reasons for this. Not only is there a cultural thing, most of the people sitting on the bench, prosecutors and others, are middle class oriented, have jobs and support the system. And the poor individual that appears before them, as a minority or not as a minority, doesn't have a job, doesn't have resources, doesn't know how to use the system. He doesn't end up on probation, he ends up going to the state prison.

Q: What type of alternatives can be considered at present, considering funding, public attitudes and the political environment?

A: Okay, number one, we have a super maximum security unit that we're going to try to [designate] for the truly dangerous individuals. That will allow the other individuals in maximum security institutions a freedom of programs and so forth.

Secondly, 67 percent of the people in our institutions are in for non-violent offenses. We only have 22 percent of that population in minimum security. I think that figure should be 40 percent or more. So I'm going to try to identify those individuals and get them out into minimum security facilities, halfway houses, group homes or other kinds of community-based facilities.

Thirdly, we're going to try to [develop] specialized programming for different populations. I mentioned the mental health program such as for inmates that might have an IQ below 80.

Based on [these steps], I feel we can reduce the population, get people out and get them working. And with our resources, with a reduction in population, we can get people down into a more relaxed, less costly environment.

Q: What about more prisons in Missouri?

A: I would say more appropriate facilities. And by that, we may need additional space, but it would be minimum security, specialized facilities and so forth. It may come down to it that we need more prisons, but I'd want to make sure that everyone presently in our facilities—medium and maximum—really has to be there.

Prisons and jails under legal seige

ILLINOIS: Conditions attacked on many fronts

Three state prisons in Illinois have come under legal fire including the state's largest facility at Menard. The other two are at Stateville and Pontiac.

In 1973, *Lightfoot v. Walker* challenged severe overcrowding and environmental health conditions at the Menard state penitentiary. In 1975, the suit was amended to include a challenge to the prison's medical services. The case was heard in 1977 by Judge James L. Foreman in the federal court of northern Illinois. The final court opinion appeared in February 1980.

Judge Foreman ruled in favor of the inmates and their legal assistants, the American Civil Liberties Union (ACLU). Under a court-ordered population limit of 2650, the final order also addressed the totality of conditions at Menard, including what the judge referred to as "systematically deficient" health and psychiatric care at the prison.

Accordingly, the judge designated Dr. Lambert King as the court appointed master in the case to oversee implementation of the order. King is the head of the model correctional health care system at Riker's Island in New York.

Another suit dealing with conditions at Menard, *Walker v. Lane*, challenges the environmental conditions for death row inmates. Inmates on the row are locked in their cells (43.5 square feet) 22.5 hours a day and are restricted from otherwise basic liberties.

The state prison at Stateville is also facing a pair of legal suits. In *Cook v. Rowe*, the prison's medical care is challenged. After reaching a consent decree, the state agreed to comply with a system of medical care as recommended by a court-appointed panel of medical experts.

Burbank v. Toomey challenges the prison's population levels and the use of triple-celling. Although a consent decree limiting population has been proposed, the outcome is still in doubt.

The state prison at Pontiac is yet another site for an overpopulation suit, *Smith v. Fairman*. Another issue has been raised in this suit. Following a 1978 riot, prison officials ordered a complete lock-up (confining inmates to their cells around the clock) which

lasted eight months. The action was found to be in violation of the Eighth amendment.

Following is a list of other Illinois prison and jail litigation:

- medical masters have been appointed to ensure adequate medical services at the Lake County Jail (*Kissane v. Brown*)
- a consent decree has been entered to ensure provision of adequate mental health care at the Cook County Jail (*Harrington v. Leavitt*);
- a consent decree has been entered dealing with overall conditions at the Alexander County Jail, with action still pending against the Illinois Department of Corrections for allegedly failing to enforce state standards at the jail (*Ortiz v. Turner*);
- major legal actions are pending challenging overall conditions at Joliet (*Hanrahan v. Franzen*), and treatment of mentally ill prisoners at Stateville (*Robert E. v. Lane*); and,
- other major actions are pending challenging overall conditions at county jails in Lake County (*Kissane v. Brown*), Peoria County (*U.S. v. Gullett*), Rock Island County (*Norris v. Heaton*), DuPage County (*Lucien v. Doria*) and Cook County (*U.S. v. Elrod*). This last is an action brought by the United States Department of Justice against Cook County.

MISSOURI: Some progress made in wake of ruling

In 1975, the American Civil Liberties Union of Eastern Missouri (ACLU/EM) filed a comprehensive class action suit on behalf of the inmates at the Missouri State Penitentiary (MSP) in Jefferson City. The defendants included Missouri corrections officials, plus former governor Joseph Teasdale.

Titled *Calvin Burks et. al. v. Joe Teasdale et. al.*, the suit is a two-pronged attack on the overcrowded and unsanitary prison conditions in addition to the lack of decent medical service available to inmates. The suit represents the largest single effort in state history aimed at ameliorating prison conditions.

The first portion of the case on overcrowding and unsanitary conditions was heard in Sept. 1978 by Federal District Judge Elmo B. Hunter. Although Judge Hunter threw out many charges, the judge ruled in favor of the inmates and ACLU with respect to overcrowding: double- and

triple-celling of inmates in certain units of the prison were unconstitutional in face of the Eighth Amendment protection against cruel and unusual punishment.

Judge Hunter ordered a substantial reduction in the prison population. According to Michael J. Hoare, a participating attorney on the ACLU case, prison officials have brought the overcrowding issue "into line" by a 25 percent reduction.

In the second portion of the suit, inmates successfully challenged the unauthorized and improperly dispensed medication, the treatment of inmates—including surgery—by other inmates and non-physicians, the lack of qualified medical supervision, the practice of transferring inmates from specialized care back to the prison hospital against medical advice, the use of restraints on inmates with psychological disorders without a physician's order and the conditions of the prison hospital, described as filthy and ill-equipped.

During the two-week trial, ACLU attorneys called several medical experts to the stand including St. Louis physicians Dr. Robert Karsh and Dr. Donald Sauer, plus Dr. George C. Gardiner of Philadelphia and Dr. Barbara Starrett, the former head of the exemplary medical services at the Riker's Island Correctional Institution outside New York City. The doctors toured the MSP hospital and reviewed the medical files of approximately 200 inmates.

To date, some progress has been made: new equipment has been installed in the operating room and physical therapy areas; a full-time doctor is now on staff; specialists are brought in periodically from Jefferson City to handle unusual problems; and residents and interns from the UMC medical school are on rotating shifts after 5 p.m.

In his court opinion Judge Hunter wrote: "Insofar as inmates must rely on the prison system to attend to their medical needs, the modern conscience cannot tolerate the continued existence of the identified offending conditions that result in violations of inmates' constitutional rights."

NATIONAL: Lawsuits in almost every state

Listed below are states with existing court decrees, or pending litigation, involving the entire state prison system or the major institutions in the state. (Not listed are jails except for D.C.):

ALABAMA: The entire state prison system is under court order dealing with total conditions and overcrowding. *Pugh*

- v. Locke*, 406 F.Supp. 318 (M.D.Ala. 1976), aff'd in substance, *Newman v. Alabama*, 559 F.2d 283 (5th Cir. 1977), cert. denied, 98 S.Ct. 3057 (1978); Receiver appointed, 466 F.Supp. 628 (M.D.Ala. 1979).
- ARIZONA:** The state penitentiary is being challenged on total conditions and overcrowding. Preliminary orders obtained on overcrowding, limiting prison population and reclassification. August 1977-Feb. 1978. *Harris v. Cardwell*, C.A. No. 75-185 PHX-CAM (D.Ariz.).
- ARKANSAS:** The entire state prison system is under court order dealing with total conditions. *Finney v. Arkansas Board of Corrections*, 505 F.2d 194 (8th Cir. 1974). Special Master appointed, *Finney v. Mabry*, 458 F.Supp. 720 (E.D.Ark. 1978).
- CALIFORNIA:** The state penitentiary at San Quentin is being challenged on overcrowding and conditions. *Huff v. Commissioner C80 3931* (N.D.Cal.).
- COLORADO:** The state maximum security penitentiary is under court order on total conditions and overcrowding. The prison was declared unconstitutional and ordered to be ultimately closed. *Ramos v. Lamm*, 485 F.Supp. 122 (D.Col. 1979); aff'd in part and remanded, No. 79-2324 (10th Cir. 9/25/80) cert. pet. pending.
- DELAWARE:** The state penitentiary is under court order dealing primarily with overcrowding and some conditions. *Anderson v. Redmon*, 429 F.Supp. 1105 (D.Del. 1977).
- FLORIDA:** The entire state prison system is under court order dealing with overcrowding. *Costello v. Wainwright*, 397 F.Supp. 20 (M.D.Fla. 1975), aff'd 525 F.2d 1239 and 553 F.2d 506 (5th Cir. 1977).
- GEORGIA:** The state penitentiary at Reidsville is under court order on total conditions and overcrowding. A special master was appointed in June 1979. *Guthrie v. Evans*, C.A. No. 3068 (S.D. Ga.).
- ILLINOIS:** The state penitentiary at Menard is under court order on total conditions and overcrowding. *Lightfoot v. Walker*, C.A. No. 78-2095 (S.D.Ill. 2/19/80). Litigation is also pending at two other major institutions.
- INDIANA:** The state prison at Pendleton is being challenged on total conditions and overcrowding. *French v. Owens*. A case was filed in Jan. 1979 against state penitentiary at Michigan City on overcrowding and total conditions. *Wellman v. Faulkner*, IP79-37-C (S.D.Ind.).
- IOWA:** The state penitentiary is under court order on overcrowding and a variety of conditions. *Watson v. Ray*, C.A. no. 78-106-1, 2/27/81 (S.D.Ia.).
- KENTUCKY:** The state penitentiary and reformatory are under court order by virtue of a consent decree on overcrowding and some conditions. *Kendrick v. Carroll*, C76-0079 (W.D.Ky.) and *Thompson v. Bland* (April 1980).
- LOUISIANA:** The state penitentiary is under court order dealing with overcrowding and a variety of conditions. *Williams v. Edwards*, 547 F.2d 1206 (5th Cir. 1977).
- MAINE:** The state penitentiary is being challenged on overcrowding and a variety of conditions. *Lovell v. Brennan*, C.A. No. 79-76SD (D.Me.).
- MARYLAND:** The two state penitentiaries were declared unconstitutional on overcrowding. *Johnson v. Levine*, 450 F.Supp. 648 (D.Md. 1978) *Nelson v. Collins*, 455 F.Supp. 727 (D.Md. 1978), aff'd _____ F.2d _____ (4th Cir. 1980).
- MASSACHUSETTS:** The maximum security unit at the state prison in Walpole is being challenged on total conditions. *Blake v. Hall*, C.A. 78-3051-T (D.Mass.).
- MICHIGAN:** The women's prison is under court order, *Glover v. Johnson*, 478 F.Supp. 1075 (E.D.Mich. 1979). The entire men's prison system is being challenged on overcrowding.
- MISSISSIPPI:** The entire state prison system is under court order dealing with overcrowding and total conditions. *Gates v. Collier*, 501 F.2d 1291 (5th Cir. 1974).
- MISSOURI:** The state penitentiary is under court order on overcrowding and some conditions. *Burks v. Teasdale* 603 F.2d 59 (8th Cir. 1979).
- NEVADA:** The state penitentiary is under court order on overcrowding and total conditions. *Craig v. Hocker*, C.A. No. R-2662 BRT (D.Nev.) (consent decree entered 7/18/80).
- NEW HAMPSHIRE:** The state penitentiary is under court order dealing with total conditions and overcrowding. *Laa-man v. Helgemoe*, 437 F.Supp. 269 (D.N.H. 1977).
- NEW MEXICO:** The state penitentiary is under a court order on overcrowding and total conditions. *Duran v. Apodaca*, C.A. No. 77-721-C (D.N.Mex.) (consent decree entered 8/1/80).
- NORTH CAROLINA:** A lawsuit was filed in 1978 at Central Prison in Raleigh on overcrowding and conditions and a similar lawsuit was recently filed involving the women's prison. *Batton v. No. Carolina*, 80-0143-CRT (E.D.N.C.).
- OHIO:** The state prison at Lucasville is under court order on overcrowding. *Chapman v. Rhodes*, 434 F.Supp. 1007 (S.D.Oh. 1977), aff'd 6/6/80 (6th Cir.), cert. pet. granted 11/3/80 No. 80-332. The state prison at Columbus is under court order resulting from a consent decree on total conditions and overcrowding and is required to be closed in 1983. *Stewart v. Rhodes*, C.A. No. C-2-78-220 (S.D.Ohio) (12/79). The state prison at Mansfield is being challenged on total conditions. *Boyd v. Denton*, C.A. 78-1054A (N.D.Oh.).
- OKLAHOMA:** The state penitentiary is under court order on total conditions and the entire state prison system is under court order on overcrowding.
- Battle v. Anderson*, 564 F.2d 388 (10th Cir. 1977).
- OREGON:** The state penitentiary is under court order on overcrowding. *Capps v. Atiyeh*, 495 F.Supp. 802 (D.Or. 1980), appeal pending (9th Cir.).
- RHODE ISLAND:** The entire state system is under court order on overcrowding and total conditions. *Palmigiano v. Garrahy*, 443 F.Supp. 956 (D.R.I. 1977). A Special Master was appointed in September 1977.
- SOUTH CAROLINA:** The state penitentiary is being challenged on overcrowding and conditions. *Mattison v. So. Car. Bd. of Corr.*, C.A. No. 76-318.
- TENNESSEE:** The entire state prison system declared unconstitutional on total conditions. Decision in August 1978 with preliminary order closing one unit by state court Judge. *Trigg v. Blanton*, C.A. No. A6047-Chancery Court, Nashville, vacated in part and remanded, Tenn. CT. of Appeals, cert. pet. granted 1/15/81, Tenn. Supreme Court.
- TEXAS:** The entire state prison system has been declared unconstitutional on overcrowding and conditions. *Ruiz v. Estelle*, H-78-987 (S.D.Tex. 12/10/80).
- UTAH:** The state penitentiary is being operated under a consent decree on overcrowding and some conditions. *Nielson v. Matheson*, C-76-253 (D. Ut. 1979).
- VERMONT:** State prison closed.
- VIRGINIA:** The state prison at Powhatan is under a consent decree dealing with overcrowding and conditions.
- WASHINGTON:** The state reformatory is being challenged on overcrowding and conditions. *Collins v. Rhay*, C.A. No. C-7813-V (W.D.Wash.). The state penitentiary at Walla Walla has been declared unconstitutional on overcrowding and conditions and a special master has been appointed. *Hoptowit v. Ray*, C-79-359 (E.D. Wash. 6/23/80).
- WISCONSIN:** The state prison at Wauppan is being challenged on overcrowding. *Delgado v. Cady*, 79-C-1018 (E.D. Wisc.).
- WYOMING:** The state penitentiary is being operated under terms of a stipulation and consent decree. *Bustos v. Herschler*, C.A.No.C76-143-B (D.Wyo.).
- DISTRICT OF COLUMBIA:** The District jails are under court order on overcrowding and conditions. *Inmates. D.C. Jail v. Jackson*, 416 F.Supp. 119 (D.D.C. 1976), *Campbell v. McGruder*, 416 F.Supp. 100 and 111 (D.D.C. 1976), aff'd and remanded, 580 F.2d 521 (D.C.Cir. 1978).
- PUERTO RICO:** The Commonwealth Penitentiary is under court order on overcrowding and conditions. *Martinez-Rodriguez v. Jiminez*, 409 F.Supp. 582 (D. P.R. 1976).
- VIRGIN ISLANDS:** Territorial prison is under court order dealing with conditions and overcrowding. *Barnes v. Gov't of the Virgin Islands*, 415 F.Supp. 1218 (D.V.I. 1976).

Women prisoners: a forgotten group

They come from the most deprived sector of the population—unskilled, from poor families, and with too little education. Nearly half are single parents. Often they have a history of mental problems or drug addiction.

These are some of the characteristics of female criminal offenders who end up in Michigan prisons. Their crimes are typically neither serious nor violent: larceny, forgery, or drug offenses. The percentage of women convicted of serious crimes has declined somewhat over the last decade, yet the number of women sent to prison increased fivefold during this period.

Dramatic increase

Faculty Associate Rosemary Sarri and Visiting Associate Research Scientist Josefina Figueira-McDonough at the Institute for Social Research, University of Michigan, in collaboration with Alfreda Iglehart, of the University's School of Social Work, and graduate students Terry Williams, Anne Celeste Burke, and Victor Burke, conducted an in-depth study of commitment patterns of women to Michigan prisons from 1968 through 1978. This research, one of the first longitudinal studies of female prisoners, was funded by the National Institute of Corrections, the U.S. Department of Justice.

The Michigan prison system was a particularly interesting research subject because there was a dramatic increase in the number of women committed to Michigan prisons between 1968 and 1978. During that decade Michigan had the fourth highest female incarceration in the country—double that of Ohio, nearly triple that of Illinois, and many times larger than those of other midwestern states.

Opportunity to sentence

In 1977, a new women's prison was opened in Michigan, the first to be built since the Detroit House of Corrections opened its Plymouth Women's Prison in 1931. This was the first facility for women run by the state and not by the city of Detroit.

"In many states," according to Sarri, "it is argued that more prison facilities are needed to eliminate overcrowding. But more prisons do not spell the end of overcrowding—they may, in fact, lead to lowered criteria for incarceration. The building of new facilities is often perceived by judges as an opportunity to sentence persons to prisons who might otherwise be placed on probation."

Findings from the study indicate that this may be the case in Michigan. "Despite the fact that the percentage of female prisoners convicted of serious crimes has declined, the length of sentences has increased," Sarri reports. "And the incarceration rate has increased much more than the crime rate for women. The new Michigan prison for women quickly became overcrowded."

"Most women prisoners could aptly be called 'society's losers,' say the researchers."

"If this seems unjust treatment for offenders convicted of typically non-violent crimes," Figueira-McDonough says, "it seems particularly unfair when the backgrounds and characteristics of these women are examined."

Most women prisoners could aptly be called "society's losers," say the researchers. Of those imprisoned in 1978, only three in ten had completed high school. And test scores did not show any improvement in the average educational performance of newly imprisoned women over these years. "Furthermore," the researchers say, "because these women are young (mean age 27), they will continue to be greatly disadvantaged in our increasingly complex and competitive society."

The employment status of the women who became part of the prison population declined dramatically during the decade. Over half of the women sent to prison in 1978 had been unemployed at the time, compared to just 17 percent in 1968.

More and more of the women who go to prison are minorities. Over half of the females committed to prison between 1968 and 1978 were non-white, and the number of the non-white women prisoners jumped by 368 percent (compared to a 120 percent increase for white women) during this period.

Nearly half of the women prisoners reported that they had children for whom they were directly responsible at the time they entered prison. But, because women who are able to make custodial arrangements for their dependent children are likely to do so before entering prison, the true proportion with children is probably higher. About 80 percent of the women with dependent children were

neither married nor had a man in the home with whom to share the responsibilities of childrearing, so finding care for their children was probably quite difficult.

"It is not surprising, then," says Figueira-McDonough, "that the crimes committed by these women are often forgery and larceny—seemingly expedient responses to pressing circumstances. And the prison experience does little to make them better able to make it in our society."

The 120-year history of the women's prison system in Michigan was studied as part of the research project. The researchers were disturbed that, until now, very little attention had been focused on women prisoners. Historically, women have comprised only a very small proportion of the total number of prison inmates, the researchers say, and their offenses have, on the whole, been less serious than those of their male counterparts.

Women accounted for between 10 and 25 percent of the total number of prisoners in Michigan during the nineteenth and early twentieth centuries, but by the 1930s they represented less than five percent of all prisoners.

Lost ground

So women prisoners were a forgotten group. Sarri cites as an example of this lack of attention the fact that the ten-volume report of the President's Commission on Crime and Criminal Justice, issued in 1967, had no references or data on female offenders.

The researchers also note that the Michigan prison system seems to have lost ground in providing rehabilitation to women inmates.

Separate prisons and special programs for females in Michigan began in 1861 with the opening of the original Detroit House of Corrections—DeHoCo. Then, as now, women's major offenses were larceny, drunkenness, and prostitution (a crime more often enforced during that era which is now treated as a misdemeanor). But at that time DeHoCo's rehabilitation program was a model of innovative treatment.

A successful prison industries program was developed at DeHoCo that taught skills and provided work similar to that available in society. Educational and rehabilitational programs were introduced to make the women better able to succeed in society.

By the turn of the century, however, this philosophy had been replaced by one with a punitive, custodial emphasis, and little changed during the first three quarters of the twentieth century, says Sarri. She notes that in May of 1977 a civil rights suit against the State Department of Corrections was filed on behalf of female offenders in the Michigan penal system. "This suit charged that women prisoners were offered educational and rehabilitational opportunities that were substantially inferior to those offered to male prisoners," says Sarri. "The presiding judge agreed that the imbalance in treatment violated the Equal Protection mandate of the Fourteenth Amendment and ordered a federal court to assume jurisdiction over programs for women in Michigan prisons. Federal supervision of programs continues today."

"We are only now coming full circle from the beginning of Michigan's women's prison system, where the emphasis was on education and rehabilitation," say the ISR researchers.

"But our society still has a long way to go in terms of adequately dealing with women offenders," they say. "Crime is a male phenomenon in this society and prisons are primarily male institutions. As a result, female offenders have been almost completely overlooked. We know that female offenders are society's losers, and we know that the present prison system does not make them any more successful in society upon release."



Rosemary Sarri

Hurt more

Sarri and Figueira-McDonough argue that a variety of new programs for women in the Michigan prison system need to be implemented, including:

- Community-based probation and residential treatment programs. "The vast majority of women offenders were found to have committed property and victimless crimes," the researchers say. "Such offenders do not belong in prison and will probably be hurt by the experience far more than society will benefit from it."
- Effective monitoring of the court and correctional systems and a frequent, systematic review of sentencing patterns and length of stay.
- Sentencing guidelines to reduce disparities within and between counties.
- Social policies and programs to resolve the inequalities and problems faced by poor women and to alleviate the educational handicaps, drug dependence, and mental illness faced by so many female prisoners.

A complete report on this project, entitled "Women in Prison, Michigan: 1968-1978" by Josefina Figueira-McDonough, Alfreda Iglehart, Rosemary Sarri, and Terry Williams, is available from the authors. For further information on this study contact Sarri or Figueira-McDonough at the Institute for Social Research, University of Michigan.



Josefina Figueira-McDonough

Grand Jury Report: Ignored as usual

The following Grand Jury Report for the February term was drafted in March, 1981 by Peter Simpson, the jury foreman. The eight remaining jurors agreed wholeheartedly to the report's tone, wording and suggestions. The report examined, among other things, conditions at St. Louis city jail and the workhouse. The comments are sometimes stark but appropriate. Recently Simpson said the report "died its regular death and remained low on the list of priorities," this after the jury unanimously agreed that they were "ashamed to be citizens of a community" that was responsible for such conditions of incarceration.

Jail

It was clear that certain areas of this building were dangerous to the lives and health of the residents, while even larger areas were simply unfit for habitation by human beings of any description. When it is noted that many of those in this jail are being detained prior to trial—some up to ten months, according to the jail director—and therefore must be accorded the presumption of innocence prior to a judicial finding of guilt, the conditions of such detention are intolerable. Further, other residents are subject to confinement upon being sentenced for relatively minor offenses, yet are being confined in dark, dirty, dank and dangerous environmental surroundings.

In stark contrast to the congenial and comfortable atmosphere of the jail director's office were the conditions we observed, particularly on the fifth and fourth floors, where most of the residents were confined like animals in pens, although the barred cages at the zoo are much better maintained.

Walls in cells were observed in which numerous coats of paint had

been chipped away along with blackened scorching described as the result of fires set by those confined. Many lights were broken out, which on the one hand offered residents a modicum of privacy while on the other offered opportunities for seriously mischievous acts. Even attempts to offer decent time-passing distractions, such as television viewing, resulted in stringing of wires which not only inhibited our freedom of movement during the course of our slowly paced tour but also represent a potential for danger. Such dangers would include misuse by depressed or suicidal residents, obstructions to the quickness of action by guards, and possible interference with the sophisticated electronics upon which the overall system of security and resident control depends.

It has been said that the character of any society may be judged by the way it treats the least of its members. If this is true, this Grand Jury is ashamed to say that we are citizens of a community that provides an environment for those accused and waiting for trial and those sentenced to minor offenses that is ugly, brutal and degrading to human dignity. All the cheap talk about not coddling criminals in country clubs only reflects barbaric insensitivity to the realities

Jails generally detain those awaiting trial, while the workhouse holds convicted offenders. Both differ from prisons in that they are designed for short-term incarceration.

it was our duty to confront and describe.

Even now, because of the fiscal strains on the city, drastic cuts are being proposed in the staffing of the Jail and the Office of Probation and Parole. Let those who are proposing such cuts be clearly forewarned. At the time of our visit, a total of 228 inmates were being guarded and ministered to by a total of 87 correctional officers. In what is classed as a maximum security institution, many of these jobs are filled by workers under the CETA program, which is scheduled for elimination by the current national administration. Most of the officers, according to the jail director, take two weeks of training at the Jail, followed by two weeks of training elsewhere, with a final two-week training regimen back at the Jail. Thus the present staff, while appearing to us to be alert and concerned, is undertrained and underpaid.

A further complication caused by the use of workers in the CETA program is that such jobs are funded only for an eighteen-month period. Thus, by the time a person is fully trained and experienced, the job is eliminated. Replacements start out afresh. Using such a program to address a need for strongly motivated and highly professional personnel is short-sighted and absurd on its face. It is yet another piece of clear evidence of the depth of concern on the part of the city administration for the urgent needs of the City Jail.

There are positive things to say. There is a serious attempt to protect the innocent and the vulnerable by placing prisoners of unidentified behavioral patterns in specified areas. On the bright and decorated sixth floor we saw prisoners who were awaiting classification or those who

had proven themselves worthy of trust. These prisoners were performing important housekeeping and support functions.

The following recommendations would result in immediate, if limited, improvements: 1) Extensive cleaning and painting in resident cells on floors two, three, four and five should be undertaken immediately; in the event of resident vandalism, corrective clean-up should be undertaken, with resident involvement, so that a clear understanding would obtain on the part of all residents as to the futility of such action; 2) A lighting system consistent with resident privacy but impervious to wanton or purposeful destruction should be designed, providing appropriate floodlights for security and sufficient light for an amenable environment; 3) Electric wiring, presently obstructing walkways and other avenues of entrance and egress, should be improved so as to provide the minimal amenities of television and radio to inmates but also to prevent danger and injury; 4) Every feasible effort should be made to motivate residents to take responsibility for the cleanliness and decent habitability of their places of incarceration; 5) The Laundry is desperately in need of new equipment, a need carrying over from the visit of the previous Grand Jury; and 6) The existing plans to connect the jail to the adjoining building, thus providing more flexibility of operation and space for 400 prisoners should be implemented forthwith, with appropriate staffing needs provided for commensurate with this minor step forward.

To conclude on a positive note, the high quality of food provided for the residents in an excellent kitchen should be given the strongest commendation. Under the supervision of Mr. John Dean, a healthy, balanced, and tasty menu provides perhaps the most humane experiences of the residents' days. This clean and well-operated kitchen is badly in need of new serving carts, which would represent a minimal expense and would help to move this good food, which was sampled heartily by the Foreman, to the various points throughout the jail. It was estimated that the average cost of a resident meal was 89¢, an astonishing amount at current food prices. Although many complaints were visited upon the individual jurors during our tour, there was not one single complaint about the

character of the food.

Finally, it should be emphasized that the hard judgments put forth in this assessment of the state of the Jail should not reflect upon the jail director and his dedicated, concerned and courteous staff. Responsibility for such dire conditions lies deep in a history of administrative irresponsibility and misplacement of priorities that the jail director and his colleagues are doing their very best to cope with. The problems of the jail must also be placed on the shoulders of a citizenry too miserly or unconcerned to care.

The medical staff is now so limited that certain kinds of medication must be administered by those unqualified for such activity. The Supervisor also lamented the high incidence of venereal disease, leading one juror to emphasize the lack of sanitation and the

"The problems of the jail must be placed on the shoulders of a citizenry too miserly or unconcerned to care."

"... this Grand Jury is ashamed to say that we are citizens of a community that provides an environment ... that is ugly, brutal and degrading to human dignity."

length of time spent awaiting trial as contributory factors, as well as being essentially degrading and frustrating. This judgment was meant to apply equally to both the workhouse and the jail.

Workhouse (medium security facility)

As a general observation, it must be said that the workhouse provided high standards of basic cleanliness. The higher level of activity of all sorts provided for prisoners seemed to provide an incentive to take greater care of their living conditions.

Residents are now assigned to specific jobs with a modicum of pay as incentive. They clean floors, work in the kitchen and in the workshop. One

striking difference between the workhouse and the jail were the lighting levels and the positive steps towards improvement in this regard. Bulbs were being replaced by fluorescent installations, providing greater candlepower and better energy economy—up to three times the amount of light per fixture.

The workshop was especially clean and orderly. Under a contract with the city, plastic trash containers are being produced, the overall effort providing for more efficient collection at an overall savings of \$120,000 to the city.

Since upwards of 1,500 meals a day are served at this facility, it was not surprising that the kitchen was large. As the jurors entered, the supper meal was in preparation by a staff which appeared to be working well. The average cost per meal was the same as at the Jail, 89¢ per serving. The menu provided indicated a solid, well-balanced diet, even if the taste was not up to the high culinary standards of the jail.

The jurors were also allowed to view the place which is called the "bullpen;" one described it as a "hell-hole." It is used for residents regarded as particularly troublesome or incorrigible. A serious question might be raised as to the appropriateness of this means of punishment in an institution such as the workhouse. Many reports of maltreatment not contemplated by the law or consistent with the otherwise enlightened procedures put forth by the supervisor have centered about this area. Consideration should be given to less punitive and degrading means of dealing even with hard cases. There is no place for the "hole" at the workhouse.

Among the ideas worthy of full support are the attempt on the part of the supervisor to increase recreational activities and upgrade the general state of facilities, particularly in the area of improved lighting. Plans for further work programs that would not compete with private industry, but provide occupational training and better work incentives for the residents should also go forward, to be in place within the year estimated as necessary by the supervisor. He also emphasized his concerns about fostering better relations between the residents and the staff, especially the guards.

Jails in danger of total collapse

By Judith Johnson

America's jails are greatly overcrowded in urban areas. Many of them are antiquated and have become targets of lawsuits over substandard conditions of confinement, and violations of prisoner and constitutional rights. At least ten percent are under court order; others have litigation pending against them. Inadequately staffed and underfinanced, these local institutions struggle to meet the political, judicial and economic demands placed before them.

With limited resources and unlimited demands, American jails are on the verge of total collapse.

Jails are different from prisons. While prisons hold people convicted of serious crimes, jails are designed primarily to hold people awaiting

trial and those serving short-term sentences.

Jails are also used to hold those for whom society has found no other place—even though they have committed no crime. Twenty-five to 60 percent of the people in many jails are there simply for being drunk in public. Annually, about 600,000 mentally ill or retarded persons and about 400,000 juveniles are held in jails. Forty percent of the people in jails have not been convicted of a crime, but are awaiting trial.

Many people in jail do not belong there. Public inebriates, juveniles, and the mentally ill and retarded are frequently guilty only of having problems with which the community cannot or will not cope; others are in jail

because they are too poor to pay the bond amount. Jails offer no hope of cure or rehabilitation for these people.

The mentally ill and retarded in jail

The mentally ill and retarded do not belong in jail, where they often end up when no one else will take them.

With the current trend towards deinstitutionalization, the mentally ill are being discharged from state mental hospitals, often with no place to go. So, they literally go to the bus station or hang out on the streets. When they act crazy at midnight, someone calls the police or the sheriff. The police officer, with no place else to take them, hauls them off to jail, where they are left to languish with no help—charged with disorderly conduct or trespassing.

The mentally retarded person usually goes through the whole criminal justice system undetected and unprotected. Because of the intellectual handicap, they frequently do not understand procedures and questions. They get into trouble by not following rules or by following the advice of the "wrong" authority figures.

It is estimated that over 600,000 mentally ill and retarded persons are held in our nation's 3,493 jails each year without the services they require. They are often the subjects of abuse and ridicule, as other inmates take advantage of their weaknesses, special needs and inability to cope with the jail environment. If they "survive" the jail environment, they usually do so at some cost to their emotional stability.

Suicides among these people are not surprising. Lawsuits have become common stemming from a mentally disturbed inmate who commits suicide or seriously injures him-



self or others. Lack of coordination between the criminal justice and mental health systems often leads to the mentally ill being labeled "the other system's responsibility."

Public inebriates in jail

One out of every three arrests in the United States is for public inebriacy or disorderly conduct. For public drunkenness alone, there are more than one million arrests each year.

The cost of arresting, booking, jailing, and trying the public inebriate runs well over 300 million dollars a year. Suicides in jail by intoxicated persons present an expensive liability program for local jurisdictions.

Many public inebriates are arrested hundreds of times for no offense greater than being drunk in public.

For example, in California, Robert Sundance and two other men were arrested 645 times for public intoxication. Between 1964 and 1974, they spent over 16 years in jail for being drunk in public. During the three years from 1972-1975, the three men were held in jail 1,419 days and were never brought to trial; their cases were always dismissed. Although in jail a third of the time during these three years, they were never offered treatment for their alcoholism.

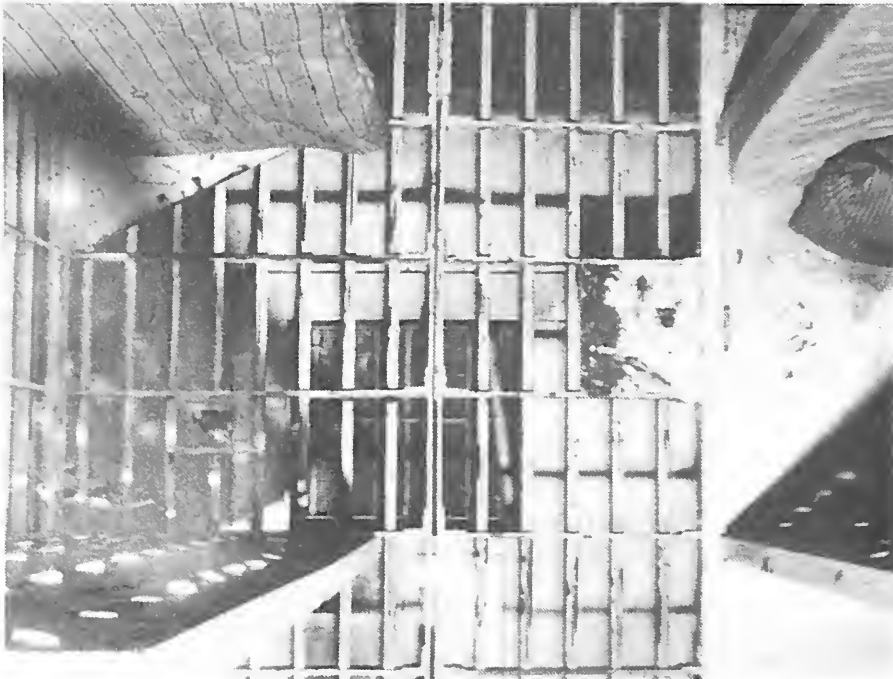
Alcoholism is a disease, not a crime. Those who are drunk in public need the attention of health care specialists, not police, sheriffs, and jailers. Jails do not have programs for public inebriates. Jails do not make alcoholics better or stop them from coming back to jail. The average person arrested for public intoxication has been arrested 12 times before. The public drunk is given a life sentence—on the installment plan.

Even in the 31 states where public intoxication is no longer a crime, the public inebriate is still being arrested and still going to jail—on charges of disturbing the peace, loitering, or disorderly conduct.

A detoxification program with a physician on call is not expensive and gives the alcoholic a chance to break the cycle. Police do not have to spend their time arresting intoxicated people. In many communities civilians operate emergency vans to pick up these people and take them to shelter homes or detoxification centers.

Juveniles in jail

Half a million juveniles are held in adult jails and lockups each year. According to a study conducted by the University of Illinois, ninety percent of the juveniles in jail do not need secure detention and eighteen percent are there for things that would



not be a crime if done by an adult—running away from home, truancy, and drinking under age.

The Children's Defense Fund found that:

In the name of protecting kids, many youngsters were in the most neglected and understaffed institutions in the entire correctional system. One girl was in jail because her father was suspected of raping her. Since the incest could not be proven the adult was not held. The girl, however, was put in jail for protective custody.

Jails are not good for kids. Even in states where laws require that juveniles be held separate from adults,

the requirement is routinely violated. Or to achieve separation, juveniles are often placed in solitary confinement. According to another study conducted by the Children's Defense Fund:

Solitary confinement for youngsters in an adult jail not only removes them from other inmates, but also from the attention of caretakers. This isolation can have severe traumatic effects on an already troubled and frightened youth.

Judith Johnson is the executive director of the National Coalition for Jail Reform in Washington, D.C.

continued

A shocking consequence of the effects of placing juveniles in adult jails is that the rate of suicide for youths in jail is 12.5 percent compared with the 1.6 percent rate of suicides in juvenile detention centers.

Pretrial release

More than forty percent of the people confined in our county jails have not been convicted of a crime. They are awaiting trial. This is twice the number of people Canada and three times the number Great Britain detains.

Taxpayers are unnecessarily burdened by the cost of holding these people. Statistically, most of the detained would show up for trial if they were released from jail.

In the meantime, it costs up to \$26,000 a year to hold one person in jail. In addition, those held often lose their jobs, forcing their families to go on welfare. And many of these people do not need to be in jail.

Frequently, people charged with minor offenses are held simply because they cannot pay the amount of bail that has been set (as low as \$100). In fact, eight out of ten people who are detained prior to trial—people who are presumed innocent—remain in jail because they cannot afford the bail.

President Lyndon B. Johnson in signing the 1966 Federal Bail Reform Act said,

"The defendant with means can afford to pay bail. He can afford to buy his freedom. But the poorer defendant cannot pay the price. He languishes in jail weeks, months, and perhaps even years, before trial. He does not stay in jail because he is guilty. He does not stay in jail because any sentence has been passed. He does not stay in jail because he is more likely to flee before trial. He stays in jail for one reason only—because he is poor."

Money bail is not the answer. There are better methods for releasing people and ensuring they show up for trial. Over ninety percent of all people released show up for trial and people who are released through the services of a pretrial agency have a better rate of appearance at trial than those released on money bail.

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Illinois politics

Mikva stays on court

On Nov. 9 the U.S. Supreme Court by a 9-0 vote agreed with a lower court ruling and upheld the appointment of former Congressman Abner J. Mikva of Illinois to the U.S. Court of Appeals for the District of Columbia. In doing so the Court rejected the challenge by Sen. James A. McClure, R-Idaho, who maintained that Mikva's appointment violated a constitutional ban on naming a member of Congress to any federal job for which the pay had been increased during the member's term. In May 1981, a three-judge panel in Idaho had held that McClure's challenge should properly have taken place during Mikva's Senate confirmation hearings.

Stevenson gets nod

The 24-member Illinois Democratic state committee unanimously endorsed former U.S. Sen. Adlai E. Stevenson III Nov. 18 as the party-backed candidate for governor. While this endorsement does not ensure Stevenson of the Democratic nomination—someone could surface to challenge him in the primary next March 16—he is unlikely to face significant opposition.

Former Gov. Dan Walker pulled out of the Democratic endorsement fight Nov. 15, recognizing that Stevenson had the votes. Walker has also pledged not to enter a contested primary. As governor from 1973 to 1977, he bickered constantly with the Chicago organization. This time, he tried to win over the organization and failed. Lawyer Alex Seith, who was the Democratic nominee for the U.S. Senate in 1978 against Republican incumbent Charles H. Percy, withdrew from the competition earlier.

The 51-year-old Stevenson, who retired from the Senate voluntarily in 1980 after 10 years, has occasionally flirted with the idea of a presidential candidacy. To secure the gubernatorial endorsement this time, he had to pledge he would serve a full four-year

term as governor. Beyond that, he said, he would "rule out nothing" for his political career.

Incumbent Republican Gov. James R. Thompson has no apparent opposition in his own party. But against Stevenson, he may be vulnerable in the Chicago area, where the mass transit system suffers from gross financial problems. Stevenson feels he can make the state's declining economy an issue, saying that Thompson has failed to deal with it.

Stevenson won a Senate term in 1970, defeating interim Republican incumbent Ralph T. Smith, who had succeeded the late GOP Sen. Everett M. Dirksen the previous year. He won again easily in 1974. Late in his second term, he became a public as well as a private critic of Senate practices and made it clear he did not wish to stay.

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